

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

LARRY W. HUDSON

Claim No. CU-2144

Decision No. CU- 4309

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Taft, Stettinius & Hollister
By: John W. Hudson, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$1,909.00, was presented by Sylvia Hudson based upon the asserted ownership and loss of three lots located on the Isle of Pines, Cuba. The claimant, Sylvia Hudson, has been a national of the United States since birth.

Evidence of record discloses that Sylvia Hudson died intestate on April 30, 1969, since filing her claim, and that her sole surviving heir is her son, LARRY W. HUDSON. Accordingly, LARRY W. HUDSON is hereby substituted as claimant in this matter.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

On the basis of the entire record, including contracts of sale, receipts, affidavits and correspondence, the Commission finds that the decedent, Sylvia Hudson, was the owner of lots 9, 10 and 11, in Block 11 of the Reparto Rio Las Casas tract, Isle of Pines, Cuba; and that upon her death on April 30, 1969, the claimant herein, LARRY W. HUDSON, inherited a claim for loss of the lots in question herein, as more particularly discussed hereafter.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stock, bonds and securities of persons who had left the country.

As the record shows, the decedent, Sylvia Hudson, resided outside of Cuba at that time. The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

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The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant." This phraseology does not differ from the international legal standard that would normally prevail in the valuation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the commission shall consider.

The evidence of record includes the sales contracts whereby the lots were purchased from the seller, Parcelacion Americana Isla de Pinos, S.A. These contracts show that the purchase price of lots 9 and 10 was in the total amount of \$1,498.00; and that the purchase price of lot 11 from the aforesaid seller was in the amount of \$599.00. The decedent, Sylvia Hudson, submitted receipts showing payment within the terms of the contracts. Accordingly, the Commission finds that the contracts and receipts are the best evidence of the value of the real property in question herein; that the total, as shown by such evidence, is in the amount of \$2,097.00; and that claimant herein succeeded to and suffered a loss in this amount within the meaning of Title V of the Act.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in this case it is so ordered.

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CERTIFICATION OF LOSS

The Commission certifies that LARRY W. HUDSON succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Thousand Ninety-Seven Dollars (\$2,097.00) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

7 JAN 1970

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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